

HOE 90/F 333C (9086\*185)  
DT 900333

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST-CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR PATENTS, PO BOX 1450, ALEXANDRIA, VA 22313-1450.

Date

J. Lynn Ferry

ANDREAS WINTER ET AL

SERIAL NO: 08/895,950  
FILED: JULY 17, 1997: ART UNIT: 1713  
: EXAMINER: TESKINFOR: METALLOCENES CONTAINING LIGANDS OF:  
2-SUBSTITUTED IDENYL DERIVATIVES,  
PROCESS FOR THEIR PREPARATION AND  
THEIR USE AS CATALYSTS

REISSUE OF U.S. PATENT NO.: 5,276,208

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450SUPPLEMENTAL REISSUE DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that: My residence, post office address and citizenship are as stated below next to my name, I believe I am an original, first and joint inventor of the subject matter which is described and claimed in United States letters patent number 5,276,208 (" '208 patent"), granted on January 4, 1994, as amended in the above-identified reissue application, and for which invention I solicit a reissue patent. This is a supplemental declaration.

One specific error with this reissue application is that this reissue application claims

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the intermediate compounds of the '208 patent which were inadvertently not claimed (see claims 19-20). Furthermore the catalyst composition of claims 21 and 22 and the process for polymerizing an olefin of claims 23- 24 were inadvertently not claimed. Claim 1 was broadened to include the intermediate compounds with A being saturated or aromatic. These mistakes were made inadvertently, without any deceptive intention.

During the prosecution of this reissue application, the claims were amended because of prior art that I was not aware of. The Examiner rejected claims 1, 2, 4-15, 19 and 20 as anticipated by or, in the alternative, as obvious over Japanese 62-121707 ("Mitsui") alone or with reference to JACS (1967) 89 (23) pgs. 5868-5876 ("JACS"). At least one error that occurred is that the claimed invention covered a species in Mitsui. Mitsui disclosed ethylene bis (2,3-dimethyl-1-indenyl) zirconium dichloride, which is substituted in the 2-position and 3-position of both ligands by a methyl group. The reissues claims were amended so that the reissue claims no longer cover this species. Reissue claims 1 and 19 were amended to exclude methyl from the definition of  $R^3$  (the 3-position of the ligand). However,  $R^3$  can be  $C_2$ - $C_{10}$ -alkyl or a  $C_1$ - $C_{10}$  alkyl which is halogenated. The definition of  $R^4$  still includes methyl. Again, the reissue claims in this application were amended to overcome this prior art rejection.

I have been informed that the reissue claim 1 will be amended to correct a possible 35 USC §112 rejection, more specifically that the definition of  $R^5$  and  $R^6$  will be amended as follows: " $R^5$  and  $R^6$  are identical or different and are as defined for  $R^4$ , with the proviso that  $R^5$  and  $R^6$  are not hydrogen". The term  $R^3$  has been deleted from the definition because

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R<sup>3</sup> and R<sup>4</sup> are no longer identical (R<sup>3</sup> excludes methyl).

Again, all of these errors arose were inadvertent and without any deceptive intent.

**POWER OF ATTORNEY**

I hereby appoint the following attorneys and or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Rudolf E. Hutz, Reg. No. 22,397; Harold Pezzner, Reg. No. 22,112; Richard M. Beck, Reg. No. 22,580; Paul E. Crawford, Reg. No. 24,397; Robert G. McMorrow, Jr., Reg. No. 30,962; Patricia Smink Rogowski, Reg. No. 33,791; Ashley I. Pezzner, Reg. No. 35,646; William E. McShane, Reg. No. 32,707, all of Connolly Bove Lodge Hutz LLP, P.O. Box 2207, Wilmington, Delaware 19899-2007

**SEND CORRESPONDENCE TO: DIRECT TELEPHONE CALLS TO:**

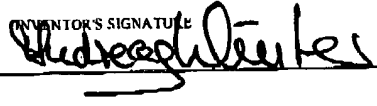
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Reissue of U.S. Patent 5,276,208

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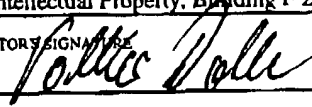
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**GERMAN LEGISLATION**

**Compilation of civil, criminal and procedural law**

Founded by

**Dr. Heinrich Schönfelder**

97<sup>th</sup> Edition

As at: March 1999

**C.H. Beck'sche Verlagsbuchhandlung**

**Munich 1999**

**Section 5: Signature authorization and commercial authority<sup>4)</sup>**

**§48. [Grant of the signature authorization; general signature authorization] (1)** The signature authorization can only be granted by the owner of the commercial business or his lawful representative and only by means of an express declaration.

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1) §36 Repealed, §37a inserted by Section 3 of the German Commercial Law Reform Act (Handelsrechtsreformgesetz-HRefG) of 22 June 1998 (Bundesgesetzblatt (BGBL.) I p1474).

2) §37 (1) amended by Act of 2 March 1974 (BGBL. I p.469), second sentence of subsection 1 repealed by non-inclusion in BGBL. Part III; see §3(1) Act of 10 July 1958 (BGBL. I p.437) in conjunction with §3 (2) (1) Act of 28 December 1968 (BGBL. I p.1451).

3) §§38-47b Repealed by the German Balance sheet Directive Act (Bilanzrichtliniengesetz-BiRiLiG) of 19 December 1985 (BGBL. I p.2355).

4) In this respect, note also §§164 et seq. of the German Civil Code (Bundesgesetzbuch); No. 20.

(2) Authorization may be given to a number of persons jointly (general signature authorization).

**§49. [Scope of the signature authorization]** (1) The signature authorization shall authorize all types of judicial and extrajudicial transactions and legal acts involved in the running of a commercial business.

(2) The authorized signatory shall not be authorized to sell and encumber land unless this authorization is specially granted to him.

**§50. [Restriction of the scope]** (1) Any restriction of the scope of the signature authorization shall be invalid with regard to third parties.

(2) This shall apply in particular to any restriction that the signature authorization may only be exercised for certain transactions or certain types of transactions or only under certain circumstances or for a certain period or at particular places.

(3) 1. A restriction of the signature authorization to the business of one of a number of establishments belonging to the owner of the business shall only be valid as regards third parties if the establishments are operated under different company names. 2. A difference in the company names for the purposes of this provision shall also be established by an additional element being included in the name for a branch office which characterizes it as the name of the branch office.

**§51. [Signature of the authorized signatory]** The authorized signatory shall sign in such a manner that he adds his name to the company name with an additional element indicating the signature authorization.

**§52. [Revokability; non-transferability; death of the owner]**

(1) The signature authorization may be revoked at any time regardless of the legal relationship on the basis of which it was granted, notwithstanding the right to contractual remuneration.

(2) The signature authorization shall not be transferable.

(3) The signature authorization shall not expire as a result of the death of the owner of the commercial business.

**§53.<sup>1)</sup> [Notification of the grant and expiry of the signature authorization; signature of the authorized signatory]** 1)<sup>1)</sup> The owner of the commercial business

shall give notice of the grant of the signature authorization for the purposes of registration in the commercial register. <sup>2)</sup> If the signature authorization is granted as a general signature authorization, notice must be also be given of this fact for registration purposes.

2) The authorized signatory shall sign his name stating the company name and an additional element indicating the signature authorization for retention at the court.

3) Notice of the expiry of the signature authorization shall be given in the same way as notice of the grant thereof for registration purposes.

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1) §53 (2) Reworded by Section 3 HRefG of 22 June 1998 (BGBl. 14p.1474).